



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Mrs. B. B. Sapp
Director and Executive Secretary
Teacher Retirement System of Texas
Austin, Texas

Dear Mrs. Sapp: Opinion No. 0-7173

Re: Construction of Section 3(3)
of the Teachers' Retirement
Act. (Article 2922-1 Vernon's
Annotated Revised Civil Stat-
utes)

We have your letter of recent date which reads in
part as follows:

"The Board of Trustees of the Retirement Sys-
tem ruled that four and one-half months be con-
sidered a minimum tenure year, provided that not
more than one tenure year can be counted during
any calendar year. Considering these facts, give
me the proper interpretation of the Law with ref-
erence to the following case.

"A member of the Teacher Retirement System
was absent from the teaching profession for five
consecutive years but returned to the teaching
profession January 21st in the sixth year. Had
this teacher, under the Teacher Retirement Law,
terminated her membership because she was absent
more than five years out of the six consecutive
year period; or does she still retain membership
because she has re-entered the teaching profes-
sion in time to teach four and one-half months of
the sixth year?"

Section 3(3) of the Teachers' Retirement Act (Article
2922-1 V. A. R. C. S.) provides in part as follows:

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"Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, or should he withdraw his accumulated contributions, or should he become a beneficiary, or upon death, he shall thereupon cease to be a member. . . ."

It is the general rule that pension statutes are to be liberally construed. (40 Am. Jur., Pensions, Section 4) The teacher in question was absent from the teaching profession for five consecutive years but returned to the profession on January 21 of the sixth year. Since the Teacher Retirement System has ruled that four and one-half months constitute a tenure year it is the opinion of this office that the teacher in question was not absent from service for more than five years and that she is still a member of the Teacher Retirement System. Since the subject of your inquiry returned to teaching on January 21 of the sixth year, in time to teach a tenure year, she was absent from service only five years.

We trust the above fully answers your inquiry.

Very truly yours

ATTORNEY GENERAL OF TEXAS

Robert T. Donahue

Robert T. Donahue
Assistant

RTD-bv

APPROVED JUL 10 1946

Att. Gen.
ATTORNEY GENERAL OF TEXAS

